

1        Dean Gazzo Roistacher LLP  
2        Lee H. Roistacher, Esq. (SBN 179619)  
3        440 Stevens Avenue, Suite 100  
4        Solana Beach, CA 92075  
5        Telephone: (858) 380-4683  
6        Facsimile: (858) 492-0486  
7        E-mail: [lroistacher@deangazzo.com](mailto:lroistacher@deangazzo.com)

5 Attorneys for Defendants  
6 State of California by and through California  
Highway Patrol and Officer Ramon Silva

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

10 SANDRA KIRKMAN AND  
11 CARLOS ALANIZ,  
12 INDIVIDUALLY AND AS  
SUCCESSORS-IN-INTEREST TO  
JOHN ALANIZ, DECEASED,

13 Plaintiff,

14 || V.

15 STATE OF CALIFORNIA;  
16 RAMON SILVA; AND DOES 1-10,  
INCLUSIVE.

17 ||| Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

## NOTICE OF APPEAL

Courtroom: 8C  
Judge: Hon. Dolly M. Gee

Complaint Filed: July 28, 2023  
Trial Date: April 15, 2025

19 Notice is hereby given that defendant Ramon Silva and the State of  
20 California by and through the California Highway Patrol (State) appeal to the  
21 United States Court of Appeals for the Ninth Circuit from the district court's  
22 March 5, 2025 order denying, in part, defendants' summary judgment motion.  
23 See Doc. 75.

24 Silva appeals from the district court's order denying him qualified  
25 immunity on plaintiff's' Fourth Amendment force-based based 42 U.S.C. § 1983  
26 claim. *See Williams v. City of Sparks*, 112 F.4th 635, 642 (9th Cir. 2024)  
27 (appellate jurisdiction to review interlocutory appeals to orders denying qualified  
28 immunity).

1       Silva and the State also appeal from the district court's denial of summary  
2 judgment on the state law Bane Act claim because that claim is "inextricably  
3 intertwined" with the district court's denial of qualified immunity to Silva on the  
4 § 1983 claim asserting a Fourth Amendment violation. *See Williamson v. City of*  
5 *Nat'l City*, 23 F.4th 1146, 1151 (9th Cir. 2022) ("We have jurisdiction over the  
6 denial of summary judgment on Williamson's Bane Act claims under the doctrine  
7 of pendent appellate jurisdiction because the rulings related to that claim and  
8 Williamson's Section 1983 claim are inextricably intertwined. *See Huskey v. City*  
9 *of San Jose*, 204 F.3d 893, 903-04 (9th Cir. 2000).").

10       Silva and the State also appeal from the denial of summary judgment on  
11 plaintiffs' state law battery claim because that claim is "inextricably intertwined"  
12 with the district court's denial of qualified immunity to Silva on the § 1983 claim  
13 asserting a Fourth Amendment violation. *Huskey*, 204 F.3d at 903-04; *see*  
14 *Cunningham v. Gates*, 229 F.3d 1271, 1285 (9th Cir. 2000) (inextricably  
15 intertwined issues are those where "resolution of the issue properly raised on  
16 interlocutory appeal necessarily resolves the pendent issue"); *Hayes v. Cty. of*  
17 *San Diego*, 736 F.3d 1223, 1232 (9th Cir. 2013) ("Claims of excessive force  
18 under California law are analyzed under the same standard of objective  
19 reasonableness used in Fourth Amendment claims."); *K.C.R. v. Cty. of Los*  
20 *Angeles*, 2015 U.S. Dist. LEXIS 191500, at \*30 (C.D. Cal. Jan. 28, 2015)  
21 (California "state law tort of battery is inextricably intertwined with the analysis  
22 of the Section 1983 claim. The analysis of the reasonableness of force is the  
23 same under both California and federal law.") (simplified).

24       ///

25       ///

26       ///

27       ///

28       ///

1 Attached to this notice is a Representation Statement.  
2

3 Dated: March 10, 2025

Dean Gazzo Roistacher LLP

4

5 By: /s/ Lee H. Roistacher

6 Lee H. Roistacher  
7 Attorneys for Defendants  
8 State of California by and through  
9 California Highway Patrol and  
Officer Ramon Silva

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**Form 6. Representation Statement**

*Instructions for this form: <http://www.ca9.uscourts.gov/forms/form06instructions.pdf>*

**Appellant(s)** (List **each** party filing the appeal, do not use "et al." or other abbreviations.)

Name(s) of party/parties:

California Highway Patrol Officer Ramon Silva and State of California by and through California Highway Patrol

Name(s) of counsel (if any):

Lee H. Roistacher, Esq.; Dean Gazzo Roistacher LLP

Address: 440 Stevens Avenue, Suite 100, Solana Beach, CA 92075

Telephone number(s): 858-380-4683

Email(s): [lroistacher@deangazzo.com](mailto:lroistacher@deangazzo.com)

Is counsel registered for Electronic Filing in the 9th Circuit?  Yes  No

**Appellee(s)** (List only the names of parties and counsel who will oppose you on appeal. List separately represented parties separately.)

Name(s) of party/parties:

Sandra Kirkman and Carlos Alaniz, individually and as Successors-in-Interest to John Alaniz, Deceased

Name(s) of counsel (if any):

Dale K. Galipo, Esq.

Cooper Alison-Mayne, Esq.

Law Offices of Dale Galipo

Address: 21800 Burbank Boulevard, Suite 310, Woodland Hills, CA 91367

Telephone number(s): 818-347-3333

Email(s): [dalekgalipo@yahoo.com](mailto:dalekgalipo@yahoo.com); [cmayne@galipolaw.com](mailto:cmayne@galipolaw.com)

*To list additional parties and/or counsel, use next page.*

*Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)*

Continued list of parties and counsel: (*attach additional pages as necessary*)

**Appellants**

Name(s) of party/parties:

Name(s) of counsel (if any):

Address:

Telephone number(s):

Email(s):

Is counsel registered for Electronic Filing in the 9th Circuit?  Yes  No

**Appellees**

Name(s) of party/parties:

Name(s) of counsel (if any):

Address:

Telephone number(s):

Email(s):

Name(s) of party/parties:

Name(s) of counsel (if any):

Address:

Telephone number(s):

Email(s):

Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)